



City of Seattle

Gregory J. Nickels, Mayor
Department of Planning & Development
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**CITY OF SEATTLE
ANALYSIS AND DECISION OF THE DIRECTOR
OF THE DEPARTMENT OF PLANNING AND DEVELOPMENT**

Application Number: 2303479

Applicant Name: Terry Beals for Central Puget Sound Regional Transit Authority ("Sound Transit")

Address of Proposal: 5201 Martin Luther King Jr. Way South

SUMMARY OF PROPOSED ACTION

Master Use Permit to establish the use as a temporary staging area for future construction of a light rail transit facility. The project includes demolition of an existing structure. An Environmental Impact Statement (EIS) was prepared by Sound Transit (issued November 1999).

The following approvals are required:

Temporary Use Permit - Seattle Municipal Code (SMC) Section 23.42.040.

SEPA - for conditioning only – Seattle Municipal Code (SMC) Chapter 25.05.

SEPA DETERMINATION: ☐ Exempt ☐ DNS ☐ MDNS ☒ EIS*

☐ DNS with conditions

☐ DNS involving non-exempt grading, or demolition or another agency with jurisdiction.

* Final Environmental Impact Statement issued by Central Puget Sound Regional Transit Authority in November 1999. An addendum was issued November 16, 2001.

BACKGROUND DATA

<i><u>Site Location:</u></i>	The subject property is located in South Seattle on a parcel situated at the northwest corner of Martin Luther King Jr. Way S. and S. Dawson Street and also abuts the east side of 33rd Avenue S. Martin Luther King Jr. Way S. at this location is a four-lane major arterial improved with curbs, gutters, sidewalks, and street trees along portions of the east side of the street. S. Dawson Street and 33rd Avenue S. at this location are both paved streets that are not improved with curbs, gutters or sidewalks at this location.
<i><u>Site Description:</u></i>	The 4,093 sf site is comprised of a single parcel developed with a combined commercial and residential structure. The property is addressed as 5201 and 5205 Martin Luther King Jr. Way S. The site has approximately 71 lineal feet of frontage along Martin Luther King Jr. Way S., 49 feet along S. Dawson Street, and 67 feet along 33rd Avenue S. The topography of the site is nearly level ground.
<i><u>Zoning/Overlays:</u></i>	The property is zoned Commercial 1 with a 40 foot height limit (C-1/40). The site does not contain any mapped or observed Environmentally Critical Areas (ECAs). Neither is the property within the boundaries of a station overlay or a neighborhood planning district.
<i><u>Zoning in Vicinity:</u></i>	Properties in the immediate vicinity are zoned Commercial 1 with a 40 foot height limit (C-1/40) to the north and south along the west side and directly opposite along the east side of Martin Luther King Jr. Way S. and zoned Single Family 5000 (SF 5000) directly west and along the west side of 33rd Avenue S.
<i><u>Uses in Vicinity:</u></i>	The abutting area is predominately a mix of commercial and residential uses with the commercial uses fronting Martin Luther King Jr. Way S. and single family with some small scale multi-family structures to the west and north east.
<i><u>Public Comments</u></i>	The public comment period ended July 9, 2003. The Department received no comments regarding the proposal.

PROJECT DESCRIPTION

The subject proposal is an element of Sound Transit's Central Link light rail C730/C740 segment along Martin Luther King Jr. Way South. The C730/C740 contract is a component of Sound Transit's Initial Segment that would ultimately connect downtown Seattle with the City of Tukwila. Under this application, Sound Transit proposes to (1) demolish the existing structure

on site and (2) use the property as a temporary construction "staging" area during the construction of the light rail line. Construction activities providing parking for 4 vehicles and areas for outdoor storage of related equipment. The entire area would have security fencing and a 15-foot wide access gate. The proposal includes grading of approximately 100 cubic yards of fill material. The site improvements are intended to be in place for only the duration of the construction of the light rail system, which is scheduled for up to 34 months.

When construction is complete, construction materials, and security fencing would be removed from the site. The property would be restored to a natural state and left in a "broom clean" condition. A Site Restoration Plan is proposed to be developed by the applicant's contractor and implemented within 180 days of vacating the site. Also, Sound Transit proposes to reconstruct the sidewalk on the east boundary of the site along Martin Luther King Jr. Way S.

ANALYSIS - TEMPORARY USE

Pursuant to SMC 23.42.040, the Director may "grant, deny or condition applications for temporary use authorization for uses not otherwise permitted or not meeting development standards in a zone, which are in keeping with the spirit and purpose of the Land Use Code." Furthermore, SMC 23.42.040(E) states that the Director may authorize a temporary use that supports the construction of a light rail transit facility provided that the requested use meets a specified set of criteria. Based on the information provided by the applicant and review of the proposal by the Land Use Planner, the following findings are made with respect to the criteria cited below:

1. *"The alignment, station locations, and maintenance base location of the light rail transit system has been approved by the City Council by ordinance or resolution;"*

The City Council has passed resolutions and ordinances approving the alignment, station locations, and maintenance bases for Sound Transit's proposed light rail system. (For additional information, refer to Resolution 30128 and Ordinances 119904, 119974, and 119975.) The temporary use for a construction staging area would accommodate Sound Transit's proposal to construct the light rail tracks and other supporting systems along this portion of Martin Luther King Jr. Way S. The proposed staging area is consistent with the resolution and ordinances passed by the City Council.

2. *"The temporary use or structure is authorized for only so long as is necessary to support construction of the light rail transit system;"*

Sound Transit anticipates that the staging area would be required for approximately 34 months during construction, which is currently estimated to be from March, 2004 through December 2006.

3. *"The applicant must submit plans for the establishment of temporary construction uses and facilities to the Director for approval. When reviewing the application, the Director shall consider the duration and severity of impacts, and the number and special needs of people and businesses exposed, such as frail, elderly, and special needs residents. Following review of proposed plans and measures to mitigate impacts of light rail transit facility construction, and prior to the issuance of any permits granting permission to*

establish construction facilities and uses, the Director may impose reasonable conditions to reduce construction impacts on surrounding businesses and residences, including but not limited to the following:

- a. *“Noise impacts will be governed by the Noise Control Ordinance (SMC Chapter 25.08) and off-site impacts associated with grading and drainage will be governed by the Stormwater, Grading and Drainage Ordinance (SMC Chapters 22.800 through 22.808).”*

The construction and operation of the temporary staging area meets the minimum requirements of the Noise Control Ordinance and the Stormwater, Grading and Drainage Ordinance. However, construction activities to establish the staging area would generate short-term noise, and the applicant has submitted to DPD a Construction Noise Mitigation Plan, which is discussed in the SEPA analysis section below and is on file with the Master Use Permit application. Also, the applicant will be required to submit a copy of any necessary demolition permits from the Puget Sound Clean Air Agency (PSCAA) to DPD, who has authority for mitigating any air quality impacts associated with the proposal.

- b. *“Light. To the extent feasible, light should be shielded and directed away from adjoining properties.”*

The applicant has indicated that lighting will be directed inward to the site and have hoods around the lamps to prevent unintentional glare.

- c. *“Best Management Practices. Construction activities on the site must comply with Director's Rule #16-2000, Best Management Practices for Construction Erosion and Sedimentation Control Plans.”*

The construction work for the proposal includes one, 15-foot wide curb cut to be located on 33rd Avenue S. The curb cut must comply with the City of Seattle, Standard Plan for a Type 430 Driveway. Grading activity will also comply with the above mentioned Director's Rule per building permit approval.

- d. *“Parking and Traffic. Measures addressing parking and traffic impacts associated with truck haul routes, truck loading and off-loading facilities, parking supply displaced by construction activity, and resulting from temporary construction-worker parking, including measures to reduce demand for parking by construction employees must be included.”*

Sound Transit has developed contractor specifications that among other provisions require their contractors to take specific measures to reduce potential impacts associated with temporary construction-worker parking. Special Provision SP-24 requires the contractor to procure parking for all of its employees and subcontractors in accordance with the prescribed Labor Compliance Manual and, if necessary, provide worker transportation to all work sites. SP-24 further prohibits employees of the contractor or its subcontractors from parking anywhere other than the contractor-furnished parking areas and may not impair the existing community parking and traffic conditions.

- e. *“Local Businesses. The applicant must address measures to limit disruption of local business, including pedestrian and/or auto access to business, loss of customer activity, or other impacts due to protracted construction activity.”*

No impacts to local businesses are anticipated with this proposal.

- f. *“Security. The applicant must address site security and undertake measures to ensure the site is secure at all times and to limit trespassing or the attraction of illegal activity to the surrounding neighborhood.”*

Security would be maintained at the construction site. Sound Transit’s, Special Provision SP-14, requires the contractor to prepare a comprehensive security plan detailing measures that will be taken to secure all staging and construction sites from unauthorized entrance. This plan will include, as appropriate, provisions for full perimeter fencing of staging areas, and the provision of security lighting.

- g. *“Site/Design. The construction site should be designed in a manner that minimizes pedestrian/vehicle conflicts and does not unnecessarily impede pedestrian mobility around the site and through adjoining neighborhoods. Measures should also be undertaken to ensure appropriate screening of materials storage and other construction activities from surrounding streets and properties.”*

Public safety and convenience provisions are incorporated into the proposal. Special Provision SP-15 requires the contractor to conduct its work with due regard for the health, welfare, mobility, safety, and convenience of the public. This provision also prohibits the contractor from obstructing pedestrian traffic, parking spaces, or vehicular or pedestrian visibility without the provision of appropriate traffic control measures. A Seattle Department of Transportation (SDOT) Truck Transportation and Haul Route Plan will be used and temporary traffic control measures will be required when work is conducted within the public way

- h. *“Public Information. Actions should be taken that will inform surrounding residents and businesses of construction activities taking place and their anticipated duration, including a twenty-four (24) hour phone number to seek additional information or to report problems.”*

Sound Transit has indicated that the project would include the implementation of a neighborhood construction plan in order to facilitate management of community issues and mitigation of construction impacts. Outreach efforts could include public meetings, construction advisories, newsletters, and other community programs. In addition, as described above, the project contractor would be required to coordinate work with adjacent property owners and participate and assist in Sound Transit community outreach efforts. As part of this effort, the contractor must designate an individual to work with Sound Transit as the contractor’s representative responsible for community issues, reporting emergencies, and communicating timely construction information for public release. This person will be “on-call” 24-hours a day to

address community concerns. Finally, information signs would be posted on the site and a 24-hour phone number provided.

- i. *“Temporary structures must be constructed to withstand inclement weather conditions.”*

No temporary structures other than perimeter fencing are a part of this proposal.

- j. *“Vibration. The applicant must consider measures to mitigate vibration impacts on surrounding residents and businesses.”*

Sound Transit’s contractor would be required to conduct construction activities and use construction methods to help minimize vibration levels. Noise reduction measures have been incorporated into to reduce potential vibration.

4. *“Site Restoration.”*

- a. *“The applicant must also agree, in writing, to submit a restoration plan to the Director for restoring areas occupied by temporary construction activities, uses or structures.”*
- b. *“The restoration plan must be submitted and approved prior to the applicant vacating the construction site and it must include proposals for cleaning, clearing, removing construction debris, grading, remediation of landscaping, and restoration of grade and drainage.”*
- c. *“Site restoration must generally be accomplished within one hundred eighty (180) days of cessation of use of the site for construction uses and activities, unless otherwise agreed to between the applicant and the Director.”*
- d. *“The Director will approve plans for site restoration in accordance with mitigation plans authorized under this section.”*

The applicant will be required to remove the temporary fence and curbcut within 180 days of cessation of the site for temporary construction staging area and will submit restoration plan prior to issuance of associated construction permits.

- 5. *“A master use permit for a temporary structure or use that supports the construction of a light rail transit facility shall not be issued until the Director has received satisfactory evidence that the applicant has obtained sufficient funding (which might include a Full Funding Agreement with a federal agency) to complete the work described in the master use permit application.”*

The City’s Sound Transit Program Manager with the Seattle Department of Transportation (SDOT) reviewed the Financial Capacity Statement submitted by Sound Transit for the proposal. On June 27, 2003, the Program Manager confirmed that the Financial Capacity Statement meets applicable code criteria.

DECISION – TEMPORARY USE

The temporary use application request is **CONDITIONALLY GRANTED** subject to the conditions noted at the end of this report.

ANALYSIS - SEPA

Central Puget Sound Regional Transit Authority (Sound Transit) as lead agency has disclosed the environmental impacts of the proposed light rail stations and temporary staging areas in a Final Environmental Impact Statement (FEIS) issued in November of 1999. An addendum to the Final EIS for the Initial Segment was issued on November 16, 2001, which generally evaluated a reduced rail alignment (from 21 miles to an initial 14 mile segment). The Director of DPD hereby incorporates by reference the FEIS and the Addendum to the FEIS. The addendum concludes that there has been no substantial change in impacts from those identified in the foregoing EIS materials. The information in the EIS, supplemental information provided by the applicant (plans, further project descriptions), and the experience of the lead agency with review of similar projects form the basis for this analysis and decision.

The SEPA Overview Policy (SMC 25.05.665) establishes the relationship among codes, policies, and environmental review. Specific policies for specific elements of the environment, certain neighborhood plans, and other policies explicitly referenced may serve as the basis for exercising substantive SEPA authority. The Overview Policy states in part: *"where City regulations have been adopted to address an environmental impact, it shall be presumed that such regulations are adequate to achieve sufficient mitigation"* (subject to some limitations).

Under certain limitations/circumstances (SMC 25.05.665 D 1-7) mitigation can be considered. Thus, a more detailed discussion of some of the impacts is cited below.

Short-term Impacts

The following temporary or construction-related impacts are expected:

- decreased air quality due to suspended particulates from demolition and grading activities and hydrocarbon emissions from construction vehicles and equipment;
- potential soil erosion and potential disturbance to subsurface soils during grading, excavation, and general site work;
- increased traffic and demand for parking from construction equipment and personnel;
- conflicts with normal pedestrian and vehicular movement adjacent to the site; and
- increased noise.

Several adopted City codes and/or ordinances provide mitigation for some of the identified impacts. Specifically, these codes and ordinances are: Stormwater, Grading and Drainage Control Code (grading, site excavation and soil erosion); Street Use Ordinance (watering streets to suppress dust, removal of debris, and obstruction of the pedestrian right-of-way); the Building Code (construction measures in general); and the Noise Ordinance (construction noise). Compliance with these applicable codes and ordinances will reduce or eliminate most of the short-term impacts to the environment. Other impacts may not be adequately mitigated by existing ordinances, as discussed below.

Air Quality

The Puget Sound Clean Air Agency (PSCAA) regulations require control of fugitive dust to protect air quality. PSCAA, the Department of Labor and Industry, and the Environmental Protection Agency (EPA) regulations provide for the safe removal and disposal of asbestos that may be encountered during the demolition of the site's existing structure. However, no permit process exists to ensure that PSCAA has been notified of the proposed building demolition and that asbestos has been removed from the site. Therefore, a condition shall be added requiring the applicant to submit to DPD a copy of the PSCAA demolition permit prior to issuance of the demolition permit. This condition is imposed pursuant to SEPA authority to mitigate air quality, construction and environmental health impacts, SMC 25.05.675 A, B, and F.

Compliance with PSCAA regulations would mitigate any other potential adverse short term impacts to air associated with demolition and installation of equipment facilities.

Grading - Earth/Soils

Any additional information required to verify conformance with applicable ordinances and codes (The Stormwater, Grading and Drainage Control Code, DR 3-93, and 3-94) would be required prior to the issuance of demolition permits and any required construction permits for the proposal. The Stormwater, Grading and Drainage Control Code requires preparation of a soils report to evaluate the site conditions and provide recommendations for safe construction on sites where grading will involve cuts or fills of greater than three feet in height or grading greater than 100 cubic yards of material. The current proposal involves grading of 50 cubic yards of material.

The Stormwater, Grading and Drainage Control Code provides extensive conditioning authority and prescriptive construction methodology to assure safe construction techniques are used; therefore, no additional conditioning is warranted pursuant to SEPA policies.

Traffic and Parking

Construction traffic would only minimally increase congestion in the area, and the area has adequate street access to accommodate any increased traffic. Parking for construction personnel would be available on the subject site and off site per Sound Transit's contractor specifications.

Therefore, no further mitigation for traffic and parking related impacts during construction is warranted pursuant to SEPA policies.

Noise

Demolition and other construction activities associated with the temporary staging area would generate short-term noise. The applicant proposes to implement a Construction Noise Mitigation Plan. This plan requires that Sound Transit and its contractor comply with the City's noise control ordinance (SMC Chapter 25.08). In addition, the plan requires that Sound Transit work with its contractor, in advance of construction, to plan the construction work in a manner that minimizes potential noise impacts on the neighbors. Sound Transit has a community outreach program to keep the adjacent communities informed throughout construction. The outreach would include updates at community organization meetings, written construction updates, regular door-to-door visits with residents, and other similar efforts. A 24-hour construction hotline would be established, and a record kept of all noise complaints. When a complaint is received, Sound Transit would use every reasonable effort to resolve it to the satisfaction of the complainant. The project should be conditioned to require that Sound Transit submit to Department of Planning and Development (DPD) upon request a list of the noise complaints received during construction of the temporary staging area and Sound Transit's response to each complaint. DPD will review the list to verify that Sound Transit is complying with the noise mitigation plan and that reasonable measures are taken to mitigate demolition and construction noise.

Long-term Impacts

No long-term or use-related impacts are anticipated since the proposal is a temporary use. The site would be left clean and restored to a "natural" state upon completion of construction activities suitable for future development.

CONCLUSION -SEPA

Applicable conditions of approval together with codes and development regulations applicable to this proposed project, provide sufficient mitigation for most impacts identified in the adopted environmental documents. However, additional conditioning to mitigate short-term noise impacts is warranted pursuant to the SEPA Overview Policy (SMC 25.05.665).

The DEIS and FEIS together with associated appendices and studies; the master use permit plans submitted on the project; and responses to requests for information all comprise DCLU's public record. Conditions imposed pursuant to SEPA assume installation of mitigating devices, structures and measures noted in the above analysis. Pursuant to SMC 25.05.600.D.1, DCLU relies on Sound Transit's FEIS in conditioning project approval.

DECISION - SEPA

Environmental impacts for the proposal were identified and analyzed in the Final Environmental Impact Statement issued by Sound Transit. DPD has the authority to mitigate impact pursuant to the city's SEPA practices. Therefore, the proposal is APPROVED subject to the conditions/mitigating measures noted at the conclusion of this report.

CONDITIONS – TEMPORARY USE

None.

CONDITIONS - SEPA

The applicant (Sound Transit) shall:

Prior to Issuance of Construction Permit

1. The owner(s) and/or responsible party(s) shall submit a copy to DPD of any required PSCAA Demolition Permit(s).

During Construction

2. The applicant shall comply with the Construction Noise Mitigation Plan submitted to DPD, a copy of which is in the Master Use Permit file. The applicant shall submit to DPD upon request a list of the noise complaints received during construction of the temporary staging area and Sound Transit's response to each complaint. The applicant shall mail the list to the attention of the undersigned DPD planner. DPD will review the list to verify that Sound Transit is complying with the noise mitigation plan and that reasonable measures are taken to mitigate demolition and construction noise

For the Life of the Project

3. Comply with all conditions and mitigating measures listed herein and described in the adopted FEIS for the proposal to the satisfaction of the City. For conditions which specify approval by a particular agency of the City or a State or Federal agency, that approval will constitute satisfactory compliance. Unless otherwise noted, DPD shall determine the issue of satisfactory compliance with conditions imposed under City authority.

Signature: (signature on file) Date: January 8, 2004
Carol I. Proud, Senior Land Use Planner
Department of Planning and Development
Land Use Services

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